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10/524,682	02/10/2006	Peter DeRosa	SEDN/PRED109	8313

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EXAMINER
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EKPO, NNENNA NGOZI

ART UNIT	PAPER NUMBER
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2623

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05/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/524,682	<b>Applicant(s)</b> DEROSA, PETER	
	<b>Examiner</b> Nnenna N. Ekpo	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Acknowledgement***

1. This Office Action is responsive to the arguments filed on April 30, 2008.

### ***Specification***

2. Previous objection to the abstract is withdrawn in view of Applicant's amendment.

### ***Response to Arguments***

3. Applicant's arguments filed 04/30/2008 have been fully considered but they are not persuasive.
4. Applicant argues on pages 9 of 13 of the 04/30/2008 Remarks that Naimpally et al. does not teach or suggest "wherein the plurality of smart audio guide audio clips are generated by a head-end of the interactive content distribution system and stored in a database at the head-end" as now recited in claim 1.
5. In response to applicant's argument, the examiner respectfully disagrees. Naimpally et al. discloses wherein the plurality of smart audio guide audio clips are generated (converting) by a head-end of the interactive content distribution system and stored (storing) in a database (database) at the head-end (remote location) (see cited portion, but not limited to abstract, lines 3-14, paragraph 0005, remote location is any location distant from the present or standard location which is equivalent to the head-end. The head-end is remote from the user device). The cited portion meets the claimed limitation.

6. Applicant argues that neither Naimpally et al. nor Aoki et al. taken alone or in combination teaches “corresponding to any customized viewing-recommendations list” as cited in claim 1.

7. In response, Examiner respectfully disagrees and draws attention to the fact that the combination of Naimpally et al. and Aoki et al. teaches the claimed limitation. Naimpally fails to disclose customized viewing-recommendations list. Aoki et al. discloses customized viewing-recommendations list (see cited portion, but not limited to col. 5, lines 34-44, customized viewing-recommendation list is provided by the recommendation to the user based on information accumulated in the preference database (108)) as previously cited in the Office Action. The combinations of the two references meet the claimed limitation.

8. Applicant argues on pages 11 of 13 of the 04/30/2008 Remarks that Naimpally et al. does not teach or suggest “the smart audio guide system wherein the processing unit is configured and operative to temporarily discontinue the audio associated with programming being displayed via the video display device at the viewer subsystem when the plurality of smart audio guide clips are being uttered in a predetermined mode at the viewer subsystem via the audio unit” as cited in claim 12.

9. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., “mute” capability so that the audio associated with the programming being viewed is again available) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into

the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Examiner believes brief pausing of the speech (which is equivalent to temporarily discontinue) as previously cited on paragraphs 0042, 0044 and 0046 meets the claimed limitation.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nainpally et al. (U.S. Publication No. 2003/0105639) in view of Aoki et al. (U.S. Patent No. 7,107,271).

Regarding **claim 1**, Nainpally et al. discloses a smart audio guide system (see fig 1, information appliance (28)) for use in conjunction with an interactive content distribution system (fig 1, integrated television (26)) that includes a distribution head-end (see fig 1, server (20)) that makes programming available for viewing on a video display device (see fig 1, television (30)) at a viewer subsystem (see paragraph 0015), the viewer subsystem including an audio unit (see fig 2, stereo audio speakers (70)) to provide audio for the video display unit, the smart audio guide system comprising (see paragraph 0027, lines 1-5):

a processing unit configured and operative to implement the smart audio guide system functions (see paragraph 0031);

a smart audio guide audio package (speech files) that includes at least a plurality of smart audio guide audio clips (EPG, weather, news information) corresponding to the information (see paragraph 0005, lines 7-12); and

a smart guide actuator (remote control, 72) that is configured and operative in response to one or more predetermined conditions to activate the processing unit (see paragraph 0037-0038);

wherein the plurality of smart audio guide audio clips are generated (converting) by a head-end of the interactive content distribution system and stored (storing) in a database (database) at the head-end (remote location) (see cited portion, but not limited to abstract, lines 3-14, paragraph 0005, remote location is any location distant from the present or standard location which is equivalent to the head-end. The head-end is remote from the user device), and said processing unit is configured and operative to cause the plurality of smart audio guide audio clips (channel 2-CNN Larry King Live etc) to be uttered in a predetermined mode at the viewer subsystem via the audio unit when activated to identify programs recommended for viewing at the viewer subsystem based upon the program list (see paragraph 0042).

However, Naimpally et al. fail to specifically disclose a recommendation engine for providing a customized viewing-recommendations list for the viewer subsystem based upon the programming available from the interactive content distribution system and a customized viewing profile developed for the viewer subsystem.

Aoki et al. discloses a recommendation engine for providing a customized viewing-recommendations list (EPG information acquisition means, 106) for the viewer

subsystem based upon the programming available from the interactive content distribution system and a customized viewing profile (recommendation to the user based on information accumulated in the preference database, 108) developed for the viewer subsystem (see col. 5, lines 34-44).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Naimpally et al.'s invention with the above mentioned limitation as taught by Aoki et al. for the advantage of providing programs the user may want to watch.

Regarding **claim 2**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 1*). Naimpally et al. discloses the smart audio guide system wherein the predetermined mode is one wherein the plurality of smart audio guide audio clips (see paragraph 0042, lines 11-15, channel 2-CNN Larry King Live etc) are uttered without (audio mode) a corresponding visual presentation of the program for the viewer subsystem (see paragraph 0036).

Aoki et al. discloses customized viewing-recommendations list (EPG information acquisition means, 106).

Regarding **claim 3**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 1*). Naimpally et al. discloses the smart audio guide system wherein the predetermined mode is one wherein the plurality of smart audio guide audio clips (see paragraph 0042, lines 11-15, channel 2-CNN Larry King Live etc) are uttered

in synchronization with a corresponding visual presentation (both visual and audio modes) of the program for the viewer subsystem (see paragraph 0036).

Aoki et al. discloses customized viewing-recommendations list (EPG information acquisition means, 106).

Regarding **claim 4**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 3*). Naimpally et al. discloses the smart audio guide system wherein the corresponding visual presentation is a graphical recommendation menu (EPG), and wherein the processing unit is configured and operative to implement a focus frame (focused grid) that visually focuses a corresponding program grid of the graphical recommendation menu in synchronization with the utterance of each of the plurality of smart audio guide audio clips (see paragraph 0049).

Regarding **claim 5**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 3*). Naimpally et al. discloses the smart audio guide system wherein corresponding visual presentation is an electronic program guide (EPG) and wherein the processing unit is configured and operative to implement a focus frame (focused grid) that visually focuses a corresponding program grid of the electronic program guide in synchronization with the utterance of each of the plurality of smart audio guide audio clips (see paragraph 0049).



Regarding **claim 6**, Nainpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 1*). Nainpally et al. discloses the smart audio guide system further comprising a speech generating unit (audio speaker), and wherein the smart audio guide audio package further comprises a plurality of smart audio guide text files (speech files); and wherein the processing unit is configured and operative to implement the speech generating unit to convert the plurality of smart audio guide text files into the plurality of smart audio guide audio clips (see abstract, lines 3-14 and fig 1 (18 and 22)).

Regarding **claim 7**, Nainpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 1*). Nainpally et al. discloses the smart audio guide system wherein the viewer subsystem further includes a viewer control unit (see paragraph 0033, (infrared remote control, 72)) and wherein the smart audio guide actuator comprises a button on the viewer control unit, which when depressed, activates the processing unit to cause the plurality of smart audio guide audio clips to be uttered in the predetermined mode at the viewer subsystem via the audio unit (see paragraph 0037-0038).

Regarding **claim 8**, Nainpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 1*). Nainpally et al. discloses the smart audio guide system wherein the smart audio guide actuator (remote control) comprises a set of instructions that activates the processing unit to cause the plurality of smart audio guide audio clips

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(channel 2-CNN Larry King Live etc) to be uttered in the predetermined mode at the viewer subsystem via the audio unit (see paragraph 0042).

Aoki et al. discloses the video display device (TV set) at the viewer subsystem is initially activated (when the program started) (see col. 7, lines 45-63).

Regarding **claim 9**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 1*). Naimpally et al. discloses the smart audio guide system wherein the smart audio guide actuator (remote control) comprises a set of instructions that activates the processing unit to cause the plurality of smart audio guide audio clips (channel 2-CNN Larry King Live etc) to be uttered in the predetermined mode at the viewer subsystem via the audio unit (see paragraph 0042).

Aoki et al. discloses at the conclusion of a programming period (program ended) (see col. 7, lines 58-61).

Regarding **claim 10**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 1*). Naimpally et al. discloses the smart audio guide system wherein the smart audio guide actuator (remote control) comprises a set of instructions that activates the processing unit to cause the plurality of smart audio guide audio clips (channel 2-CNN Larry King Live etc.) to be uttered in the predetermined mode at the viewer subsystem via the audio unit upon activation of a graphical recommendation menu (EPG) on the video display device at the viewer subsystem (see paragraph 0042).

Regarding **claim 11**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 1*). Naimpally et al. discloses the smart audio guide system wherein the smart audio guide actuator (remote control) comprises a set of instructions that activates the processing unit to cause the plurality of smart audio guide audio clips (channel 2-CNN Larry King Live etc.) to be uttered in the predetermined mode at the viewer subsystem via the audio unit upon activation of an electronic program guide (EPG) on the video display device at the viewer subsystem (see paragraph 0042).

Regarding **claim 12**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 1*). Naimpally et al. discloses the smart audio guide system wherein the processing unit is configured and operative to temporarily discontinue (pause) the audio associated with programming being displayed via the video display device at the viewer subsystem when the plurality of smart audio guide audio clips (channel 2-CNN Larry King Live etc.) are being uttered in a predetermined mode at the viewer subsystem via the audio unit (see paragraphs, 0042, 0044 and 0046).

Regarding **claim 13**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 1*). Naimpally et al. discloses the smart audio guide system wherein each of the plurality of smart audio guide audio clips has an audio format that includes a first portion identifying a program name (CNN Larry King Live etc) and a second portion identifying a viewing channel (channel 2 etc) (see paragraph 0046).

Regarding **claim 14**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 13*). Naimpally et al. discloses a first portion identifying a program name (CNN Larry King Live etc) and a second portion identifying a viewing channel (channel 2 etc) (see paragraph 0046).

Aoki et al. discloses supplemented audio format/clips has a sentence format (see col. 6, lines 17-28).

Regarding **claim 15**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 1*). Aoki et al. discloses the smart audio guide system further comprising:

means for selecting (user vocally inputs a response) a program for viewing from the customized viewing-recommendations list (user preference database acquired by the EPG) corresponding to one of the uttered smart audio guide audio clips (see col. 5, lines 61-col. 6, lines 28).

12. **Claims 16-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Naimpally et al. (U.S. Publication No. 2003/0105639) and Aoki et al. (U.S. Patent No. 7,107,271) as applied to *claim 15* above, and further in view of Takagi et al. (U.S. Publication No. 2002/0113895).

Regarding **claim 16**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 15*). Naimpally et al. discloses uttered smart audio

guide audio clip (see paragraph 0042, lines 11-18).

However, Naimpally et al. and Aoki et al. fail to specifically disclose the viewer subsystem includes a viewer control unit having a plurality of numbers for selecting viewing channels and wherein the selecting means comprises the plurality of numbers of the viewer control unit and depressing the keys to select the program for viewing.

Takagi et al. discloses the viewer subsystem includes a viewer control unit (see fig 2, remote controller (30)) having a plurality of numbers (0-9 and +100) for selecting viewing channels and wherein the selecting means comprises the plurality of numbers of the viewer control unit (see fig 2 and paragraph 0023, lines 9-10) and depressing the keys to select the program for viewing (see paragraph 0018-0019).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Naimpally et al. and Aoki et al.'s invention with the above mentioned limitation as taught by Takagi et al. for the advantage of changing or selecting the desired television channel.

Regarding **claim 17**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 15*). Naimpally et al. discloses uttered smart audio guide audio clip (see paragraph 0042, lines 11-18).

However, Naimpally et al. and Aoki et al. fail to specifically disclose the viewer subsystem includes a viewer control unit having a select button and wherein the selecting means is the select button of the viewer control unit, select the program for viewing corresponding to the channel.

Takagi et al. discloses the viewer subsystem includes a viewer control unit (see fig 2, remote controller (30)) having a select button (see fig 2, enter (38)) and wherein the selecting means is the select button of the viewer control unit, selecting the program for viewing corresponding to the channel (see paragraph 0023, lines 14-15).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Naimpally et al. and Aoki et al.'s invention with the above mentioned limitation as taught by Takagi et al. for the advantage of changing or selecting the desired television channel.

Regarding **claim 18**, Naimpally et al. and Aoki et al. discloses everything claimed as applied above (*see claim 15*). Naimpally et al. discloses plurality of smart audio guide audio clip and uttered smart audio guide audio clip (see paragraph 0042, lines 11-18).

However, Naimpally et al. and Aoki et al. fail to specifically disclose the viewer subsystem includes a viewer control unit having a plurality of numbers and wherein the processing unit is configured and operative to activate individual ones of the plurality of numbers of the viewer control unit to correspond to viewing channels associated with the plurality of numbers, and wherein the selecting means comprises the individually activated numbers of the viewer control unit, one which is selectively depressed to select a viewing channel corresponding to the program for viewing associated with the one channel.

Takagi et al. discloses the viewer subsystem includes a viewer control unit (see fig 2, remote controller (30)) having a plurality of numbers (0-9 and +100) and wherein the processing unit (see fig 1 (control unit, 8)) is configured and operative to activate individual ones of the plurality of numbers of the viewer control unit to correspond to viewing channels associated with the plurality of numbers (see paragraph 0017, lines 1-10), and wherein the selecting means comprises the individually activated numbers of the viewer control unit (see fig 2 (remote controller, 30 and numeric key, 33)), one which is selectively depressed to select a viewing channel corresponding to the program for viewing associated with the one channel (see paragraph 0023, lines 9-10).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Naimpally et al. and Aoki et al.'s invention with the above mentioned limitation as taught by Takagi et al. for the advantage of changing or selecting the desired television channel.

### ***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nnenna N. Ekpo whose telephone number is 571-270-1663. The examiner can normally be reached on Monday - Friday 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NNE/nne  
May 9, 2008.

/Brian T. Pendleton/  
Supervisory Patent Examiner, Art Unit 2623